55255

TITLE INDEX TO LEADING ARTICLES

APPOINTMENT OF SUPREME COURT JUSTICES, THE:
PRESTIGE, PRINCIPLES AND POLITICS: *John P. Frank* 172, 343, 461
ARMY COURT-MARTIAL SYSTEM, THE: *Archibald King* 311
EMPLOYER FREEDOM OF SPEECH AND THE NLRB: *Charles C. Killingworth* 211
JUDICIAL REGULATION OF LEGISLATIVE PROCEDURE IN WISCONSIN: *Charles Luce* 439
POWER OF SUPERINTENDING CONTROL OF THE WISCONSIN SUPREME COURT, THE: *John D. Wickhem* 153
TEN YEARS OF COMPARATIVE NEGLIGENCE: *Richard V. Campbell* 289
WORK OF THE WISCONSIN SUPREME COURT FOR AUGUST 1939 AND JANUARY 1940 TERMS, THE: BANKING AND NEGOTIABLE INSTRUMENTS: *Jacob H. Beuscher* 11
CONTRACTS AND QUASI CONTRACTS: *Miles Lambert* 20
CRIMINAL LAW: *Alfred Gausewitz* 25
EVIDENCE: *Glen H. Bell* 37
INSURANCE: *Gordon Sinykin* 43
LABOR: *William Gorham Rice, Jr.* 52
MUNICIPAL CORPORATIONS: *Laurence C. Gram* 60
PERSONS: *Ernst H. Schopflocher* 67
PLEADING, PRACTICE AND PROCEDURE: *Paul W. Schuette* 72
REAL PROPERTY, MORTGAGES, AND VENDOR AND PURCHASER: *Mary Eschweiler* 79
REMEDIES: *John C. Stedman* 86
STATISTICAL SURVEY: *Marlin M. Volz* 5
TAXATION: *T. Carroll Sizer* 98
TORTS: *Richard V. Campbell* 110
TRUSTS AND DECEDENTS' ESTATES: *Howard L. Hall* 128

AUTHOR INDEX TO LEADING ARTICLES

BELL, GLEN H.: *Work of the Wisconsin Supreme Court; Evidence* 37

BEUSCHER, JACOB H.: *Work of the Wisconsin Supreme Court; Banking and Negotiable Instruments* 11

CAMPBELL, RICHARD V.: *Ten Years of Comparative Negligence* 289

Work of the Wisconsin Supreme Court; Torts 110

ESCHWEILER, MARY: *Work of the Wisconsin Supreme Court; Real Property, Mortgages, and Vendor and Purchaser* 79

FRANK, JOHN P.: *The Appointment of Supreme Court Justices: Prestige, Principles and Politics* 172, 343, 461

GAUSEWITZ, ALFRED L.: *Work of the Wisconsin Supreme Court; Criminal Law* 25

GRAM, LAURENCE C.: *Work of the Wisconsin Supreme Court; Municipal Corporations* 60

HALL, HOWARD L.: *Work of the Wisconsin Supreme Court; Trusts and Decedents' Estates* 128

KILLINGSWORTH, CHARLES C.: *Employer Freedom of Speech and the NLRB* 211

KING, ARCHIBALD: *The Army Court-Martial System* 311

LAMBERT, MILES: *Work of the Wisconsin Supreme Court; Contracts and Quasi Contracts* 20

LUCE, CHARLES: *Judicial Regulation of Legislative Procedure in Wisconsin* 439

RICE, WILLIAM GORHAM, JR.: *Work of the Wisconsin Supreme Court; Labor* 52

SCHOPFLOCHER, ERNST H.: *Work of the Wisconsin Supreme Court; Persons* 67

SCHUETTE, PAUL W.: *Work of the Wisconsin Supreme Court; Pleading, Practice and Procedure* 72

SINYKIN, GORDON: *Work of the Wisconsin Supreme Court; Insurance* 43

SIZER, T. CARROLL: *Work of the Wisconsin Supreme Court; Taxation* 98

STEDMAN, JOHN C.: *Work of the Wisconsin Supreme Court; Remedies* 86

VOLZ, MARLIN M.: *Work of the Wisconsin Supreme Court; Statistical Survey* 5

WICKHEM, JOHN D.: *The Power of Superintending Control of the Wisconsin Supreme Court* 153

INDEX

References are to pages; bold face numbers indicate leading articles.

ADMINISTRATIVE LAW

Evidence: death benefits under workmen's compensation act: testimony of transactions with deceased admissable: recent Wisconsin cases **41**
NLRB restrictions on employer free speech: **211**
background of expressions **214**
criticism of **211**
defense of **213**
effect on contracts, elections **232**
legality of board's policy **214**
moderation urged **238**
objectionable statements **227**
printed matter **225**
statements without background .. **217**
supervisors as employer's agents **220**
third party agents **223**
Practice and procedure: Banking Commission subject to rules of: recent Wisconsin cases **74**
Res judicata: Industrial Commission order: final award of compensation: recent Wisconsin cases **52**
Sufficiency of evidence to sustain order of Labor Relations Board: recent Wisconsin cases **59**

APPEAL AND ERROR

Appellate practice: recent Wisconsin cases **78**

ATTORNEYS

Conduct and argument criticized: recent Wisconsin cases **76**
Unauthorized practice of law 577

ATTORNEY AND CLIENT

Privileged communications: recent Wisconsin cases **41**

AUTOMOBILES

See INSURANCE; NEGLIGENCE.

BANKRUPTCY

Debts not dischargeable under section 17A (4): 239
ascertaining nature of debt 247
burden of proof 248
capacity of debtor: officer or fiduciary 242
how debt created: fraud, embezzlement, misappropriation, defalcation 239

BANKS AND BANKING

Bank deposits: escheat law: recent Wisconsin cases **17**
Liquidation:
right of F.D.I.C. to dividends: recent Wisconsin cases **17**
tolling of statute of limitations: recent Wisconsin cases **18**
Loans to another bank: window dressing: recent Wisconsin cases **20**
Wisconsin Supreme Court: work of **17**

CONSTITUTIONAL LAW

See STATUTES.
Constitutionality of statute: raised by mandamus to publish: recent Wisconsin cases **95**
Free speech: employer and NLRB **211**
Income tax: additional assessment period reopened: recent Wisconsin cases 101
Municipal corporations: zoning ordinances: recent Wisconsin cases **65**
Presumption of constitutionality 409
Privilege against self incrimination. blood tests 251

Privilege dividend tax: recent Wisconsin cases 99
Special legislation 141, 396
Supreme Court of Wisconsin: superintending power 153

CONTRACTS

Accord and satisfaction: check marked payment in full: disputed account: recent Wisconsin cases 25
Agreement not to compete: division of territory: recent Wisconsin cases 93
Illegality:
public works contracts: freedom of competition in securing: recent Wisconsin cases 20
silent partnership agreement: tavern license in name of active partner only: recent Wisconsin cases 21
Minors: power to contract under workmen's compensation act: recent Wisconsin cases 24
Municipal corporations: recent Wisconsin cases 64
Parol evidence of contract not to compete: recent Wisconsin cases 25
Reformation: mutual mistake: recent Wisconsin cases 49
Statute of Frauds: recent Wisconsin cases 23
Wisconsin Supreme Court: work of 20

CORPORATIONS

Transacting business:
foreign corporations 380
interstate transactions 380
litigation and loaning money 387
place where contract is made 383
sale of stock 386

COURTS

Federal: bound by lower state court decisions on state questions 528
Judge and jury: recent Wisconsin cases 75
Superintending control: Wisconsin Supreme Court: 153
departure from clear duty requirement 164
grant of powers 153
nature of jurisdiction 160
original jurisdiction of Wisconsin Supreme Court 159
purpose of jurisdiction 161
tests for application of power 161
writs used in exercising control....166
United States Supreme Court; appointment of justices:....172, 343, 461
Arthur appointments 347
Civil War appointments 177
Cleveland, McKinley, and Theodore Roosevelt 370
confederate to the Court 347
conservative interregnum: Taft appointments 373
economic approach 497
Fuller; Chief Justice 347
Grant appointments 183
Harding appointments 469
Harlan and Woods appointments 204
Harrison choices 360
Mathews appointment 345
New Deal 501
Pre-Civil War appointments 174
Stone appointment 489
Wilson appointments 461

CREDITORS RIGHTS

See BANKRUPTCY.

CRIMINAL LAW

Abortion: manslaughter by: social problem: recent Wisconsin cases 26
Accessories and joint principals: effect of acquittal of principal: recent Wisconsin cases 33
Appeals: number and result of: recent Wisconsin cases 26
Classifications of homicide: overly minute: recent Wisconsin cases.... 30
Evidence: sufficiency of: recent Wisconsin cases 35
Firearms: availability as cause of crime: recent Wisconsin cases 36
Jeopardy: when it attaches in trial without jury: recent Wis-

consin cases 36
Manslaughter by gross negligence: recent Wisconsin cases 27
Mental defectives: insanity: test for: recent Wisconsin cases 31
Plea of guilty: without advice of counsel: recent Wisconsin cases.... 30
Prior threats: admissibility of: recent Wisconsin cases 36
Statutory rape: problem of discriminating between offenders: recent Wisconsin cases 28
Wisconsin Supreme Court: work of 25

DAMAGES

Diminution of under comparative negligence 291
Judge and jury: instruction on statutory limit: recent Wisconsin cases 76
Liquidated: recent Wisconsin cases 93
Nuisance: continuing: recent Wisconsin cases 88
Passion and prejudice: recent Wisconsin cases 94
Wrongful death statute:
funeral expenses: recent Wisconsin cases 90
instruction to jury: recent Wisconsin cases 91
pain and suffering: recent Wisconsin cases 91

DECEDENTS' ESTATES

Wisconsin Supreme Court: work of 128

DECLARATORY JUDGMENTS

Burden of proof 513

DEEDS

Sale of equity of redemption by....388

EQUITY

Sale of equity of redemption by deed 388

EVIDENCE

Blood test for intoxication in criminal cases 249
constitutional objections 251
effect as evidence 256
physician-patient privilege 255
scientific basis 250
Burden of proof:
in declaratory judgment actions....513
burden on defendant 515
burden on plaintiff 516
to established suicide: to establish forgery: recent Wisconsin cases 39
Decedent: transaction with: recent Wisconsin cases 40
Expert opinion: intoxication based on blood tests: recent Wisconsin cases 37
Hearsay: dying declaration: recent Wisconsin cases 40
Judicial notice: recent Wisconsin cases 42
Legislative procedure 440
Parol: admissibility to show agreement not to compete: recent Wisconsin cases 25, 42
Presumptions:
against suicide: recent Wisconsin cases 39
automobile driver as agent of owner 521
Privilege: attorney-client: recent Wisconsin cases 41
Proof of loss: recent Wisconsin cases 93
Sufficiency: to sustain criminal verdict: recent Wisconsin cases.... 35
Threat: time element: recent Wisconsin cases 43
Wisconsin Supreme Court: work of 37

EXECUTORS AND ADMINISTRATORS

See TRUST AND DECEDENTS' ESTATES.

EXEMPTIONS

Homestead exemption: quantity of land as affected by location and use 136

FEDERAL JURISDICTION

Erie v. Tompkins doctrine extended: lower state courts controlling 528

FRAUDS, STATUTE OF

Note or memorandum: insufficiency of minutes of town board signed by clerk: recent Wisconsin cases 23
Oral agreement to purchase stock: recent Wisconsin cases 24
Part performance: recent Wisconsin cases 85

FRAUDULENT CONVEYANCES

Innocent purchaser for value: rights of: recent Wisconsin cases 82

GUARDIAN AND WARD

Appointment: recent Wisconsin cases 135
Misappropriation by guardian: knowledge not imputed to bank: recent Wisconsin cases 135

HUSBAND AND WIFE

Wisconsin Supreme Court: work of 67

INDUSTRIAL COMMISSION

See WORKMEN'S COMPENSATION.

INSURANCE

Automobile sales agency: construction of customer coverage clause: recent Wisconsin cases 45
Bond coverage: limited: recent Wisconsin cases 51
Cooperation provision: recent Wisconsin cases 46
Group insurance: construction of continuous employment clause: recent Wisconsin cases 43
Influence of intoxicant: construction of: recent Wisconsin cases.... 45
Limited coverage: not permitted: recent Wisconsin cases 47
Omnibus coverage clauses: recent Wisconsin cases 47
Reformation of contract: mutual mistake: recent Wisconsin cases 49
Wisconsin standard fire policy 534
Wisconsin Supreme Court: Work of 43

JOINT TORT FEASORS

Contribution rights of defendants under comparative negligence Statute 301

JURISDICTION

See COURTS; PRACTICE AND PROCEDURE; FEDERAL JURISDICTION.

LABOR LAW

See UNEMPLOYMENT COMPENSATION; WORKMEN'S COMPENSATION.
Employer free speech: see ADMINISTRATIVE LAW: NLRB
Sufficiency of evidence to sustain order of Labor Relations Board: recent Wisconsin cases 59
Wisconsin Supreme Court: work of 52

LEGISLATION

See STATUTES.

LIENS

Contractors' liens: recent Wisconsin cases 94

LIMITATIONS, STATUTE OF

Contractors' liens: recent Wisconcases 95

LITIGATION

Statistical survey of work of the Wisconsin Supreme Court for August 1939 and January 1940 terms 5

MANDAMUS

See REMEDIES.

MASTER AND SERVANT

See LABOR LAW; TEACHER TENURE; UNEMPLOYMENT COMPENSATION; WORKMEN'S COMPENSATION.

MILITARY LAW

Army court-martial system 311
articles of war 313
charge and arrest 322

company punishment 319
conflicting and concurrent jurisdiction 320
constitutional basis 312
defense counsel 326
punishment, sentence 324, 331
preliminary investigation 325
review 324
treatment, classification parole of military prisoners 340
trial 327

MORTGAGES

Extension of redemption period by courts: recent Wisconsin cases.... 83
H.O.L.C. refinancing and second mortgages: recent Wisconsin cases 84
Sale of equity of redemption by deed 388
Specific performance of purchaser's agreement to pay mortgage indebtedness: recent Wisconsin cases 86

MUNICIPAL CORPORATIONS

Contracts: recent Wisconsin cases.... 64
Direct legislation: salaries of city aldermen 264
Electric utility: negligence in operation of: recent Wisconsin cases 62
Frauds: statute of: strict compliance required: recent Wisconsin cases 24
Governmental function: nuisance: liability for maintenance of: recent Wisconsin cases 63
Liability for tort: a survey 540
agent: not regular employee 561
governmental and proprietary functions 542
insurance 568
nuisance 554
proprietor—proprietor relationship 549
statutes removing immunities 562
Officers: recent Wisconsin cases 63
Public street: want of repairs: liability: recent Wisconsin cases 62
Safe place statute: liability under: recent Wisconsin cases 60
Special legislation for cities 141
Wisconsin Supreme Court: work of 60
Zoning ordinances: recent Wisconsin cases 65

NEGLIGENCE

Assumption of risk:
effect of comparative negligence on 297
recent Wisconsin cases 119
Attractive nuisance: age limit of those protected by: recent Wisconsin cases 124
Comparative negligence: recent Wisconsin cases 111
Comparative negligence:
ten years of 289
claimant's right to recover 289
concurrent and independent negligence of several parties 293
damages: diminution of 291
effect on other established doctrines 297
evaluation of Wisconsin rule 304
recommended legislation 304
Contribution:
common liability: recent Wisconsin cases 126
effect of comparative negligence....301
Degrees of negligence: effect of comparative negligence on 299
Gross negligence:
effect of comparative negligence on 299, 307
manslaughter by: recent Wisconsin cases 26
Host-guest cases: duty: recent Wisconsin cases 119
Imputed negligence:
agency: presumption: recent Wisconsin cases 125
automobile drivers: presumption of agency 521
Left turn statutes: analogy to: recent Wisconsin cases 110
Pedestrian: recent Wisconsin cases 110
Proximate cause: recent Wisconsin cases 113

Safe place statute
liability of owner of public building used as place of employment: recent Wisconsin cases 127
municipal corporation: recent Wisconsin cases: 60
survey 56
Sale of liquor to automobile driver: vendor's liability to one injured by driver: recent Wisconsin cases 116
Signal: recent Wisconsin cases 111
Wisconsin Supreme Court: work of 110

NEGOTIABLE INSTRUMENTS

Consideration: moral: recent Wisconsin cases 14
Guarantors of corporate bonds: effect of 77 B reorganization upon the liability of: recent Wisconsin cases 15
Note payable to, not indorsed by maker: recent Wisconsin cases.... 11
Payment on note secured by assigned mortgage: recent Wisconsin cases 16
Wisconsin Supreme Court: work of 11

NUISANCE

See PUBLIC NUISANCE.

PAROL EVIDENCE

See EVIDENCE.

PART PERFORMANCE

See FRAUDS, STATUTE OF.

PERSONS

Equal rights of women: recent Wisconsin cases 67
Wisconsin Supreme Court: work of 67

PLEADING

Wisconsin Supreme Court: work of 75

PRACTICE AND PROCEDURE

Appellate practice: recent Wisconsin cases 78
Argument and conduct of counsel: recent Wisconsin cases 76
Judge and jury: recent Wisconsin cases 75
New trial: recent Wisconsin cases 77
Process and jurisdiction: recent Wisconsin cases 72
Res judicata: recent Wisconsin cases 78
Service by publication: allegation of jurisdictional facts: recent Wisconsin cases 72
Unauthorized practice of law: insurance adjusters 577
Wisconsin Supreme Court: work of 72

PUBLIC NUISANCE

Lotteries: multiple dividend plan....571

QUASI CONTRACTS

Processing taxes: attempt to recover from seller on unjust enrichment: recent Wisconsin cases 23
Recovery by poster of collateral from recipient of funds loaned: recent Wisconsin cases 22
Wisconsin Supreme Court: work of 22

REAL PROPERTY

Adverse possession: grantee of tenant: recent Wisconsin cases.... 79
Claims based on tax certificates: priority of: recent Wisconsin cases 108
Construction of written instrument: recent Wisconsin cases 80
Fixtures: adaptation to use: recent Wisconsin cases 82
Fraudulent conveyances: recent Wisconsin cases 82
Mortgages: recent Wisconsin cases 83
Powers construed: recent Wisconsin cases 81
Sale of equity of redemption by deed 388
Specific performance: recent Wisconsin cases 84
Wisconsin Supreme Court: work of 79

REMEDIES

Continuing nuisance: damages for: recent Wisconsin cases 88
Contractors' liens: recent Wisconsin cases 94
Fraud and deceit: recent Wisconsin cases 86
Liability of parent to unemancipated child: personal injury: wrongful death statute 392
Mandamus: recent Wisconsin cases 95
Wisconsin Supreme Court: work of 86
Writs issued by Wisconsin Supreme Court: superintending and other original jurisdiction 153
Wrongful death statute: recent Wisconsin cases 90

STATUTES

Comparative negligence: ten years of 289
Direct legislation in municipalities: authorizing statute construed 264
Legislative procedure:
judicial control 439
evidence 440
fiscal measures 451
immaterial variance 449
justiciability 440
legislative rules of procedure 453
pleading and proof 454
separability 451
Wisconsin journal rule 444
Special legislation:
classification sanctioned by constitution 401
constitutional provisions 397
construction as special 141
equal protection clause 404
factual approach and presumption of constitutionality 408
germane to the purpose test 402
rule against closed class 411
uniform county government 406
Strict construction of statute in derogation of common law 270
Unemployment compensation act construed 269

TAXATION

Assessment of income: when final: recent Wisconsin cases 100
Common law business trust: income from: recent Wisconsin cases 98
Constitutionality of removing limitation on reassessment: recent Wisconsin cases 102
Gift tax:
jurisdiction to tax: integrated transaction: tax avoidance 278
personal property located outside state 276
recent Wisconsin cases 107
Income tax:
apportionment: recent Wisconsin cases 104
divorce settlement: recent Wiscases 103
Inheritance tax: fair market value: recent Wisconsin cases 105
Liquidating corporation: recent Wisconsin cases 98
Occupational tax: recent Wisconsin cases 109
Power of appointment: property passing under: recent Wisconsin cases 106
Privilege dividend tax: constitutionality of: recent Wisconsin cases 99
Property tax:
partial redemption: recent Wisconsin cases 109
priority of tax certificate claims: recent Wisconsin cases 108
valuation of personal property: recent Wisconsin cases 108
Wisconsin Supreme Court: work of 98

TEACHER TENURE

Contracts in force at time of enactment of tenure law: recent Wisconsin cases 59

TORTS

Automobile driver: presumed agent of owner 521

Liability of parent to unemancipated child 392
Liability of vendor of liquor in civil action 419
Malicious prosecution:
civil suit 257
relation to costs 262
interest protected 258
recent Wisconsin cases 128
Municipality: liability for 540
Negligence: see NEGLIGENCE
Sale of liquor: posted person: liability: recent Wisconsin cases 128
Wisconsin Supreme Court: work of 110
wrongful death statute: liability of parent to unemancipated child 392

TRADE REGULATION

Wisconsin loss leader statute 425

TRUSTS

Administration: recent Wisconsin cases 132
Construction: recent Wisconsin cases 129
Constructive trusts: recent Wisconsin cases 133
Creation: imperfect gift: recent Wisconsin cases 132
Wisconsin Supreme Court: work of 128

UNEMPLOYMENT COMPENSATION

Act construed 270
Independent contractor 273
Independent contractor or employee: recent Wisconsin cases 57

UNFAIR COMPETITION

See TRADE REGULATION.

VENDOR AND PURCHASER

Wisconsin Supreme Court: work of 79

WILLS

See TRUSTS AND DECEDENTS' ESTATES.
Administration: interest on legacies: recent Wisconsin cases 132
Construction: recent Wisconsin cases 128
Presumption: legacy to pay debt: recent Wisconsin cases 129
Wisconsin Supreme Court: work of 128

WISCONSIN LAW SCHOOL

News of the school 146, 581
Note on history of school 146

WISCONSIN SUPREME COURT, WORK OF

Banking and negotiable instruments 11
Contracts and quasi-contracts 20
Criminal law 25
Evidence 37
Insurance 43
Labor 52
Municipal corporations 60
Persons 67
Pleading, practice and procedure 72
Real property, mortgages, and vendor and purchaser 79
Remedies 86
Statistical survey 5
Taxation 98
Torts 110
Trusts and decedents' estates 128

WORKMEN'S COMPENSATION

Amount of compensation: recent Wisconsin cases 53
Disability: physical distinguished from medical: recent Wisconsin cases 54
Disposition of appeals: recent Wisconsin cases 57
Division of opinion of commission: recent Wisconsin cases 53
Employee status: recent Wisconsin cases 56
Employer: recent Wisconsin cases.... 55
Extraterritorial reach of act: recent Wisconsin cases 53
Final award as res judicata: recent Wisconsin cases 52
Injuries arising out of or in course of employment: recent Wisconsin cases 55
Time and cause factors: need for distinguishing 279
Wisconsin Supreme Court: work of 52